

Proposed Rule Amendments to:

§373.1. Supervision of Non-Licensed Personnel.

§373.2. Supervision of a Temporary Licensee.

§373.3. Supervision of an Occupational Therapy Assistant.

Please note that these are PROPOSED amendments. They have NOT been adopted.

The current rules are in effect. Please [click this link](#) to view the current rules.

Introduction:

The Texas Board of Occupational Therapy Examiners proposes amendments to §373.1-§373.3, concerning supervision requirements for non-licensed personnel, temporary licensees, and occupational therapy assistants. The amendments will clarify supervision requirements in general and with regard to supervision via telehealth. The proposed amendments include grammatical revisions and cleanups, as well.

The proposed amendment to §373.1 clarifies that when non-licensed personnel are assisting in the construction of adaptive/assistive equipment, the licensee must be physically present for any initial applications to the client. “Splints” has been removed from this provision as proposed changes to §372.1, concerning provision of services, include the provision that devices (such as wheelchair positioning devices, splints, therapeutic tape, etc.) that are in sustained skin contact with the client require the physical presence of the occupational therapy practitioner for any initial or subsequent applications and/or monitoring of the device.

§373.2 has been reorganized to clarify supervision requirements for temporary licensees and to clarify that new licensees, upon verification of their licensure status and expiration date on the Board’s verification page, may provide services according to the conditions of the license. A provision has also been added requiring that occupational therapists who hold a temporary license must record their required supervision on a Supervision Record.

The proposed amendment to §373.3 reorganizes and clarifies supervision requirements for occupational therapy assistants and includes changes to required supervision hours. The amendment also clarifies the requirement that an occupational therapy assistant must be able to contact an occupational therapist who is available to answer questions about the client’s intervention at the time of the provision of occupational therapy services.

Comments: Comments on the proposed amendments may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701 or to lea@ptot.texas.gov no later than 30 days from the date that these proposed amendments are published in the *Texas Register*.

These proposed amendments with the complete preamble will be published in the May 29, 2015 edition of the [Texas Register](#).

Please note that any new words/phrases in the proposal are underlined. Language that has been removed has a strikethrough and is in brackets.

§373.1. Supervision of Non-Licensed Personnel.

(a) Occupational Therapists are fully responsible for the planning and delivery of occupational therapy services. They may use non-licensed personnel to extend their services; however, the non-licensed personnel must be under the supervision of an occupational therapy practitioner.

(b) ~~[Close Personal]~~ Supervision in this section is ~~[implies direct,]~~ on-site contact whereby the supervising occupational therapy licensee is able to respond immediately to the needs of the client ~~[patient.]~~ This type of supervision is required for non-licensed personnel providing support services to the occupational therapy practitioners.

(c) When occupational therapy practitioners delegate occupational therapy tasks to non-licensed personnel, the occupational therapy practitioners are responsible for ensuring that this person is adequately trained in the tasks delegated.

(d) The occupational ~~[Occupational]~~ therapy practitioners providing the intervention ~~[treatment]~~ must interact with the client ~~[patient]~~ regarding the client's ~~[patient's]~~ condition, progress, and/or achievement of goals during each intervention ~~[treatment]~~ session.

(e) Delegation of tasks to non-licensed personnel includes but is ~~[it]~~ not limited to:

- (1) routine department maintenance;
- (2) transportation of clients ~~[patients/clients];~~
- (3) preparation or set up of intervention ~~[treatment]~~ equipment and work area;
- (4) assisting clients ~~[patients/clients]~~ with their personal needs during the intervention ~~[treatment];~~
- (5) assisting in the construction of adaptive/assistive equipment ~~[and splints]~~. The licensee must be physically present ~~[on-site and attending]~~ for any initial applications to the client ~~[patient];~~
- (6) carrying out a predetermined segment or task in the client's ~~[patient's]~~ care for which the client ~~[patient]~~ has demonstrated some previous performance ability in executing the task.

(f) The Non-Licensed Personnel may not:

- (1) perform occupational therapy evaluative procedures;
 - (2) initiate, plan, adjust, or modify occupational therapy procedures;
 - (3) act on behalf of the occupational therapist in any matter relating to occupational therapy which requires decision making or professional judgments;
 - (4) write or sign occupational therapy documents in the permanent record.
- However, non-licensed personnel may record quantitative data for tasks delegated by the supervising occupational therapy practitioner. Any documentation reflecting activities by non-licensed personnel must identify the name and title of that person and the name of the supervising occupational therapy practitioner.

§373.2. Supervision of a Temporary Licensee.

(a) Requirements for all temporary licensees:

- (1) A temporary licensee works under the supervision of a ~~[regular]~~ licensed occupational therapist who holds a regular license and [;] whose name, [and] license number, and employer information are on file on the Board's Supervision of a Temporary Licensee ["Supervision of a Temporary Licensee"] form. For each supervising occupational therapist and/or employer, the temporary licensee must submit the Supervision of a Temporary Licensee form. In this section, a supervising occupational therapist is any occupational therapist whether working full time, part time, or PRN (i.e., working on an as-needed basis), who delegates to the temporary licensee.
- (2) All documentation completed by an individual holding a temporary license which becomes part of the client's ~~[patient's/client's]~~ permanent file ~~[;]~~ must be approved and co-signed by one of the supervising occupational therapist(s). ~~[therapist.]~~
- (3) Temporary licensees may not supervise anyone.
- (4) A temporary licensee does not become a regular licensee with those privileges until the regular license can be verified as being current and its expiration date is displayed on the Board's license verification page. ~~[the regular license is in hand.]~~

(b) Supervision of an occupational therapy assistant with a temporary license includes:

- (1) On-the-Premises Supervision: When providing occupational therapy services, a temporary licensee must have supervision by an occupational therapist or occupational therapy assistant who is on the premises and holds a regular license.

(2) Supervision Log and Supervision Hours:

(A) The temporary licensee must complete supervision hours each month, which must be recorded on the Supervision Log. The Supervision Log is kept by the temporary licensee and signed by the occupational therapist(s) when supervision is given. The occupational therapist(s) or employer may request a copy of the Supervision Log.

(B) All of the occupational therapists, whether working full time, part time, or PRN, who delegate to the temporary licensee must participate in the supervision hours, whether on a shared or rotational basis.

(C) For each employer, the temporary licensee must complete a separate Supervision Log, in addition to all other requirements.

(D) For those months when the licensee does not work as a temporary licensee, he or she shall write N/A in the Supervision Log.

(E) Supervision Logs are subject to audit by the Board.

(F) The temporary licensee is required to complete a minimum of sixteen supervision hours each month for each employer, which must include:

(i) a minimum of twelve hours of frequent communication between the supervising occupational therapist(s) and temporary licensee including, but not limited to, communication by electronic/communications technology methods, written report, and conference, including review of progress of clients assigned, plus

(ii) a minimum of four hours of interactive supervision a month during which the occupational therapist, who is physically present with the temporary licensee, directly observes the temporary licensee providing services to one or more clients.

~~[(1) sixteen hours of supervision a month of which at least twelve hours are through telephone, written report or conference, including the review of progress of patients/clients assigned; plus]~~

~~[(2) four or more hours of supervision a month which are face-to-face, real time supervision with the temporary licensee providing services to one or more patients/clients.]~~

~~[(3) A temporary licensee must have on-site supervision by an occupational therapist or occupational therapy assistant with a regular license when providing occupational therapy services.]~~

(c) Supervision of an occupational therapist with a temporary license includes [documentation regarding]:

(1) On-the-Premises Supervision: When providing occupational therapy services, a temporary licensee must have supervision by an occupational therapist who is on the premises and holds a regular license.

(2) Supervision Record and Required Supervision Communication and Encounters:

(A) The temporary licensee must receive supervision each month, which must be recorded on the Temporary Occupational Therapist Licensee Supervision Record. The Supervision Record is kept by the temporary licensee and signed by the occupational therapist(s) when supervision is given. The occupational therapist(s) or employer may request a copy of the Supervision Record.

(B) All of the occupational therapists, whether working full time, part time, or PRN, who delegate to the temporary licensee must participate in the required supervision, whether on a shared or rotational basis.

(C) For each employer, the temporary licensee must complete a separate Supervision Record, in addition to all other requirements.

(D) For those months when the licensee does not work as a temporary licensee, he or she shall write N/A in the Supervision Record.

(E) Supervision Records are subject to audit by the Board.

(F) The temporary licensee is required to complete the following supervision requirements for each employer:

(i) frequent communication between the supervising occupational therapist(s) and temporary licensee including, but not limited to, communication by electronic/communications technology methods, written report, and conference, including review of progress of clients assigned, plus

(ii) interactive encounters twice a month during which the occupational therapist, who is physically present with the temporary licensee, directly observes the temporary licensee providing services to one or more clients.

~~[(1) frequent communication between the supervising occupational therapist and the temporary licensee by telephone, written report or conference, including the review of progress of patients/clients assigned; plus]~~

~~[(2) encounters twice a month where the occupational therapist directly observes the temporary licensee providing services to one or more patients/clients with face-to-face, real time interaction.]~~

~~[(3) A temporary licensee must have on-site supervision by an occupational therapist with a regular license when providing occupational therapy services.]~~

§373.3. Supervision of an Occupational Therapy Assistant.

(a) An occupational therapy assistant shall provide occupational therapy services only under the supervision of an occupational therapist(s).

(b) Supervision of an occupational therapy assistant in all settings includes:

(1) Supervision Form: For each employer, the occupational therapy assistant must submit the Occupational Therapy Assistant Supervision form with the employer information and name and license number of one of the occupational therapists working for the employer who will be providing supervision.

(2) Supervision Log and Supervision Hours:

(A) The occupational therapy assistant must complete supervision hours each month, which must be recorded on the Supervision Log. The Supervision Log is kept by the occupational therapy assistant and signed by the occupational therapist(s) when supervision is given. The occupational therapist(s) or employer may request a copy of the Supervision Log.

(B) All of the occupational therapists, whether working full time, part time, or PRN (i.e., working on an as-needed basis), who delegate to the occupational therapy assistant must participate in the supervision hours, whether on a shared or rotational basis.

(C) For each employer, the occupational therapy assistant must complete a separate Supervision Log and must complete the specified supervision hours, in addition to all other requirements. Supervision hours for different employers may not be combined.

(D) For those months when the licensee does not work as an occupational therapy assistant, he or she shall write N/A in the Supervision Log.

(E) Supervision Logs are subject to audit by the Board.

(F) Occupational therapy assistants must complete these types of supervision per month according to the following table:

(i) Frequent Communication Supervision: frequent communication between the supervising occupational therapist(s) and occupational therapy assistant including, but not limited to, communication by electronic/communications technology methods, written report, and conference, including review of progress of clients assigned, plus

(ii) Interactive Supervision: interactive supervision during which the occupational therapist, who is physically present with the occupational therapy assistant, directly observes the occupational therapy assistant providing services with one or more clients.

OTA Required Supervision Hours

<u>OTAs working 128 or more hours during a given month:</u>	<u>OTAs working between 70-127 hours during a given month:</u>	<u>OTAs working 69 or fewer hours during a given month:</u>
<u>6 hours of frequent communication supervision</u>	<u>3 hours of frequent communication supervision</u>	<u>2 hours of frequent communication supervision</u>
<u>2 hours of interactive supervision</u>	<u>1 hour of interactive supervision</u>	<u>1 hour of interactive supervision</u>

(3) The occupational therapy assistant must include the name of a supervising OT in each intervention note. This may not necessarily be the occupational therapist who wrote the plan of care, but an occupational therapist who is readily available to answer questions about the client's intervention at the time of the provision of services. If this requirement is not met, the occupational therapy assistant may not provide services.

~~[(b) Supervision of a full time employed occupational therapy assistant by the occupational therapist(s) in all settings includes:]~~

~~[(1) A minimum of six hours a month of frequent communication between the supervising occupational therapist(s) and the occupational therapy assistant(s) by telephone, written report, email, conference etc., including review of progress of patient's/client's assigned, plus]~~

~~[(2) A minimum of two hours of supervision a month of face-to-face, real time interaction with the occupational therapist(s) observing the occupational therapy assistant providing services with patients/clients.]~~

~~[(3) These hours shall be documented on a Supervision Log for each employer. The occupational therapist(s) or employer may request a copy of the Supervision Log. The Supervision Log is kept by the occupational therapy assistant and signed by occupational therapist(s) when supervision is given.]~~

~~[(4) All the occupational therapist(s), whether working full time, PRN or part-time, who delegate to the occupational therapy assistant, must be participating in the supervision time, whether on a rotational or shared basis.]~~

~~[(e) Occupational therapy assistants working part-time or less than a full month within a given month may pro-rate these hours, but shall document no less than four hours of supervision per month, one hour of which includes face-to-face, real time interaction by the occupational therapist(s) observing the occupational therapy assistant providing services with patients/clients.]~~

~~[(d) Those months where the occupational therapy assistant licensee does not work as a occupational therapy assistant, he or she shall write N/A in the Supervision Log for that month.]~~

~~[(e) Occupational therapy assistants with more than one employer must have a supervisor at each job whose name is on file with the board and must receive supervision by an occupational therapist(s), as outlined for part-time employment in this section. Occupational therapy assistants who work for more than one employer must submit the name and license number at least one OT at each employer, though any of the occupational therapist(s) at the employer may supervise.]~~

~~[(f) The occupational therapy assistant must include the name of the supervising OT in each patient's intervention note. This may not necessarily be the occupational therapist who wrote the plan of care, but an occupational therapist who is readily available to answer questions about the patient's/client's intervention:.]~~

~~[(g) If the occupational therapy assistant has no occupational therapist's name to write in their notes, or available to call, the occupational therapy assistant cannot provide OT services.]~~

~~[(h) Occupational therapy assistants' Supervision Logs are subject to audit by the board.]~~